IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TYLER DIVISION

INNOVATIVE GLOBAL SYSTEMS LLC, §		
§		
v. §	**NO. 6:09-cv-157**	
§		
TURNPIKE GLOBAL TECHNOLOGIES §		
L.L.C., et al. §		

ORDER

This provisional claim construction opinion construes the disputed terms in U.S. Patent Nos. 6,411,203 ("the '203 Patent"), 6,608,544 ("the '554 Patent"), 6,744,352 ("the '352 Patent"), 7,015,800 ("the '800 Patent"), and 7,449,993 ("the '993 Patent") (collectively, "the patents-in-suit"). The Court will issue a Memorandum Opinion and Order, including a full analysis of the disputed claim terms, at a later date. The Court may modify this provisional construction when it issues the Memorandum Opinion and Order. All deadlines in the Docket Control Order dependent upon the Court's *Markman* opinion are calculated from the date this order is signed. This order is intended to serve as a guideline and framework with which the parties may proceed with litigation.

BACKGROUND

Plaintiff Innovative Global Systems LLC ("Plaintiff") alleges Defendant Cadec Global Inc. ("Defendant") infringes the patents-in-suit. The parties have presented their claim construction positions (Doc. Nos. 114, 121, 126) and submitted a joint technology tutorial (Doc. No. 124-1). On May 27, 2010, the Court held a claim construction hearing and heard argument.

DISCUSSION

The parties have agreed to the constructions of the terms "connector" and "a vehicle data communications protocol converter connected to said plurality of electrical conductors." The Court provisionally adopts the parties' agreed constructions. Accordingly, "connector" is provisionally

construed as "an instrumentality linking components." The Court provisionally finds "a vehicle data communications protocol converter connected to said plurality of electrical conductors" is not governed by 35 U.S.C. § 112 ¶ 6 and does not need a construction.

The Court provisionally construes the following disputed terms:

Term	Plaintiff's Proposed Construction	Defendant's Proposed Construction
First Data Communications Protocol *'203 Patent, Claims 1, 6, 11* *'554 Patent, Claims 1, 6, 11* *'352 Patent, Claim 11* *'800 Patent, Claims 1, 10, 12* *'993 Patent, Claims 1, 7, 8, 15, 20* **First Vehicle Data Communications Protocol** *'203 Patent, Claim 24* *'554 Patent, Claim 24* *'352 Patent, Claim 55* *'800 Patent, Claim 25* *'993 Patent, Claims 15, 20*	data encoded in a communication protocol associated with the vehicle, for example, J1708 or J1939	a set of rules governing the treatment and format of communications to and from vehicle electronic subsystems

The Court provisionally construes this term as "data encoded in a communication protocol associated with the vehicle."

Term	Plaintiff's Proposed Construction	Defendant's Proposed Construction
Vehicle Data Communications Protocol Converter *'554 Patent, Claim 11* *'352 Patent, Claims 1, 11* *'993 Patent, Claims 1, 8, 11*	"vehicle" has its plain and ordinary meaning "data communications protocol converter" should be construed as "a device that converts data encoded in one protocol into data encoded in another protocol"	a device capable of converting one set of rules governing the treatment and format of vehicle data communications to another set of rules governing the treatment and format of vehicle data communications

The Court provisionally construes this term as "a device that converts data encoded in one protocol into data encoded in another protocol."

Term	Plaintiff's Proposed Construction	Defendant's Proposed Construction
Convert/Converting *'203 Patent, Claims 1, 11, 24* *'554 Patent, Claims 1, 11, 24* *'352 Patent, Claims 11, 55* *'800 Patent, Claims 1, 12, 25* *'993 Patent, Claims 1, 8, 15*	re-encoding data in one protocl to another protocol	Defendant does not believe this term requires construction. However, Defendant does not agree with Plaintiff's proposal and believes the construction of "first data communications protocol" and "second data communications protocol" adequately address this dispute.

The Court provisionally finds construction of these terms unnecessary.

Term	Plaintiff's Proposed Construction	Defendant's Proposed Construction
Data *'203 Patent, Claims 1, 8, 11, 24* *'554 Patent, Claims 1, 11, 24* *'352 Patent, Claim 11, 55* *'800 Patent, Claims 1, 12, 25* *'993 Patent, Claims 1 and throughout*	information originating from or directed to a system of a vehicle and relating to operation, monitoring, or control of the system	information collected from one or more vehicle electronic subsystems

The Court provisionally construes this term as "information originating from or directed to a system of a vehicle and relating to operation, monitoring, or control of the system."

Term	Plaintiff's Proposed Construction	Defendant's Proposed Construction

| **Second Data Communications Protocol** *'554 Patent, Claims 1, 11, 12, 24, 25* *'352 Patent, Claims 11, 55, 56* *'993 Patent, Claims 1, 5, 8, 12, 15, 19*

Second RF Data Communication Protocol *'203 Patent, Claims 1, 11, 12, 24, 25* *'554 Patent, Claim 29* *'800 Patent, Claims 1, 12, 13, 25, 26*

Wireless Data Communications Protocol *'993 Patent, Claims 5, 12, 19* | data encoded in a [RF] communication protocol suitable for transmission between the vehicle and a remote location whether or not the vehicle is in operation | a set of rules governing the treatment and format of wireless communications limited to close proximity of a vehicle |

The Court provisionally construes these terms as "data encoded in a [RF] communication protocol suitable for transmission between the vehicle and a remote location."

Term	**Plaintiff's Proposed Construction**	**Defendant's Proposed Construction**
Remote Data Communications Terminal *'203 Patent, Claims 1, 11, 12, 24, 25* *'554 Patent, Claims 1, 11, 12, 24, 25* *'352 Patent, Claim 11, 55, 56*	data communications terminal that is remote from vehicle whether or not the vehicle is in operation	a set of rules governing the treatment and format of communications to and from vehicle electronic subsystems

The Court provisionally construes this term as "data communications terminal that is remote from vehicle."

Term	**Plaintiff's Proposed Construction**	**Defendant's Proposed Construction**

| Transceiver
'203 Patent, Claims 1, 11
'554 Patent, Claims 1, 11, 12
'352 Patent, Claim 11
'800 Patent, Claims 1, 12 | No construction

Alternatively, "a device that transmits and receives" | a device that transmits and receives wireless communications limited to a close proximity of a vehicle |

The Court provisionally construes this term as "a device that transmits and receives."

Term	Plaintiff's Proposed Construction	Defendant's Proposed Construction
Connected [to] *'203 Patent, Claims 1, 8, 11, 12, 24* *'554 Patent, Claims 1, 7, 8, 11, 12, 14* *'352 Patent, Claim 12, 17* *'800 Patent, Claims 1, 11, 12, 13, 15* *'993 Patent, Claims 1, 2, 8, 9*	linked together physically, communicatively, electrically, or logically	directly, physically linked to

The Court provisionally finds construction of this term unnecessary.

Term	Plaintiff's Proposed Construction	Defendant's Proposed Construction
Operatively Connect[ed][ing] *'993 Patent, Claims 2, 9, 16*	linked together in such a way that operation of one can affect the other	electronically linked to, directly or indirectly

The Court provisionally construes this term as "linked together in such a way that operation

of one can affect the other."

Term	Plaintiff's Proposed Construction	Defendant's Proposed Construction
Heavy Duty Vehicle *'203 Patent, Claims 1, 24* *'352 Patent, Claim 17* *'800 Patent, Claim 1*	No construction Alternatively, "a vehicle having a gross vehicle weight rating of greater than 8500 pounds, or curb weight of	a tractor and a connected trailer

| | | more than 6000 pounds" | |

The Court provisionally finds construction of this term unnecessary.

Term	Plaintiff's Proposed Construction	Defendant's Proposed Construction
Vehicle Data Communications Protocol Converting Means *'203 Patent, Claims 1, 11* *'554 Patent, Claim 1* *'800 Patent, Claims 1, 12*	"vehicle" has its plain and ordinary meaning "data communications protocol converting means" should be construed as "a circuit or microprocessor that converts data encoded in one protocol to data encoded in another protocol and structural equivalents thereof."	The term is governed by 35 U.S.C. § 112 ¶ 6. Function: Converting a first data communications protocol associated with data communications along the plurality of electrical conductors to a second data communications protocol Structure: An RS-485 transceiver; a signal booster, preferably provided by amplification circuitry and/or power boosting circuitry; and any one or more of: J1708 to RS-485 converter, RS-485 to J1708 converter, RS-485 to IrDA converter, IrDA to RS-485 converter, RS-485 to RF converter, RF to RS-485 convert, and structural equivalents.

The Court provisionally finds this term is governed by 35 U.S.C. § 112 ¶ 6. The Court finds

the claimed function is "converting a first data communications protocol associated with data

communications along the plurality of electrical conductors to a second data communications

protocol" and the corresponding structure is "any one or more of: J1708 to RS-485 converter, RS-

485 to J1708 converter, RS-485 to IrDA converter, IrDA to RS-485 converter, RS-485 to RF converter, RF to RS-485 converter, and structural equivalents."

Term	Plaintiff's Proposed Construction	Defendant's Proposed Construction
Means connected to said vehicle data communications protocol converter for transmitting the second data communications protocol from said vehicle, and for receiving the second data communications protocol from a remote data communications terminal *'992 Patent, Claims 1, 8*	transceiver and structural equivalents thereof	The term is governed by 35 U.S.C. § 112 ¶ 6. Function: Transmitting the second data communications protocol from said vehicle and receiving the second data communications protocol from a remote data communications terminal Structure: IrDA compliant integrated circuit; built-in infrared transceiver 35, such as an infrared light emitting diode and an infrared photodetector or photodiode, an infrared transceiver or emitter/detector pair; a transceiver, which preferably includes a plurality of infrared light emitter or light emitting diodes, a plurality of infrared photodiodes, and associated drive and amplification circuitry; a physical layer signal processing transceiver, infrared or radio frequency, including a combination transmitter and receiver, and structural equivalents.

The Court provisionally finds this term is governed by 35 U.S.C. § 112 ¶ 6. The Court finds

the claimed function is "transmitting the second data communications protocol from said vehicle and

receiving the second data communications protocol from a remote data communications terminal"

and the corresponding structure is "a transceiver, and structural equivalents."

CONCLUSION

The Court sets forth the foregoing constructions on a provisional basis. The Court reserves

the right to modify this provisional construction when it issues a Memorandum Opinion and Order.

For the ease of reference, the Court's claim interpretations are set forth in tables attached to this

order as Appendix A.

So ORDERED and SIGNED this 4th day of June, 2010.

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JOHN D. LOVE
UNITED STATES MAGISTRATE JUDGE

APPENDIX A

Term	Court's Construction
First Data Communications Protocol *'203 Patent, Claims 1, 6, 11* *'554 Patent, Claims 1, 6, 11* *'352 Patent, Claim 11* *'800 Patent, Claims 1, 10, 12* *'993 Patent, Claims 1, 7, 8, 15, 20* **First Vehicle Data Communications Protocol** *'203 Patent, Claim 24* *'554 Patent, Claim 24* *'352 Patent, Claim 55* *'800 Patent, Claim 25* *'993 Patent, Claims 15, 20*	data encoded in a communication protocol associated with the vehicle
Vehicle Data Communications Protocol Converter *'554 Patent, Claim 11* *'352 Patent, Claims 1, 11* *'993 Patent, Claims 1, 8, 11*	a device that converts data encoded in one protocol into data encoded in another protocol
Convert/Converting *'203 Patent, Claims 1, 11, 24* *'554 Patent, Claims 1, 11, 24* *'352 Patent, Claims 11, 55* *'800 Patent, Claims 1, 12, 25* *'993 Patent, Claims 1, 8, 15*	No Construction
Data	information originating from or directed to a system of a vehicle

'203 Patent, Claims 1, 8, 11, 24 *'554 Patent, Claims 1, 11, 24* *'352 Patent, Claim 11, 55* *'800 Patent, Claims 1, 12, 25* *'993 Patent, Claims 1 and throughout*	and relating to operation, monitoring, or control of the system
Second Data Communications Protocol *'554 Patent, Claims 1, 11, 12, 24, 25* *'352 Patent, Claims 11, 55, 56* *'993 Patent, Claims 1, 5, 8, 12, 15, 19* **Second RF Data Communication Protocol** *'203 Patent, Claims 1, 11, 12, 24, 25* *'554 Patent, Claim 29* *'800 Patent, Claims 1, 12, 13, 25, 26* **Wireless Data Communications Protocol** *'993 Patent, Claims 5, 12, 19*	data encoded in a [RF] communication protocol suitable for transmission between the vehicle and a remote location
Remote Data Communications Terminal *'203 Patent, Claims 1, 11, 12, 24, 25* *'554 Patent, Claims 1, 11, 12, 24, 25* *'352 Patent, Claim 11, 55, 56*	a device that transmits and receives
Connected [to] *'203 Patent, Claims 1, 8, 11, 12, 24* *'554 Patent, Claims 1, 7, 8, 11, 12, 14* *'352 Patent, Claim 12, 17* *'800 Patent, Claims 1, 11, 12, 13, 15* *'993 Patent, Claims 1, 2, 8, 9*	No Construction

Operatively Connect[ed][ing] *'993 Patent, Claims 2, 9, 16*	linked together in such a way that operation of one can affect the other
Heavy Duty Vehicle *'203 Patent, Claims 1, 24* *'352 Patent, Claim 17* *'800 Patent, Claim 1*	No Construction
Vehicle Data Communications Protocol Converting Means *'203 Patent, Claims 1, 11* *'554 Patent, Claim 1* *'800 Patent, Claims 1, 12*	Function: converting a first data communications protocol associated with data communications along the plurality of electrical conductors to a second data communications protocol Structure: any one or more of: J1708 to RS-485 converter, RS-485 to J1708 converter, RS-485 to IrDA converter, IrDA to RS-485 converter, RS-485 to RF converter, RF to RS-485 converter, and structural equivalents.
Means connected to said vehicle data communications protocol converter for transmitting the second data communications protocol from said vehicle, and for receiving the second data communications protocol from a remote data communications terminal *'992 Patent, Claims 1, 8*	Function: transmitting the second data communications protocol from said vehicle and receiving the second data communications protocol from a remote data communications terminal Structure: a transceiver, and structural equivalents